

Message Text

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ACTION OES-07

INFO OCT-01 EUR-12 ISO-00 ACDA-12 CIAE-00 INR-10 IO-14

L-03 NSAE-00 NSC-05 EB-08 NRC-07 SOE-02 DODE-00

DOE-15 SS-15 SP-02 CEQ-01 TRSE-00 OMB-01 COME-00

PA-02 ICA-20 /137 W

-----031671 061409Z /43

R 061350Z JUL 78

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC 7952

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E.O. 11652: N/A

TAGS: ENRG, TECH, CA

SUBJECT: URANIUM LEGISLATION INTRODUCED

DEPARTMENT FOR OES/NET/HOYLE AND EUR/CAN

DEPARTMENT PLEASE PASS DOE FOR NININGER AND SIEVERING

1. SUMMARY: A BILL WAS INTRODUCED TO PARLIAMENT BY ALASTAIR GILLESPIE, MINISTER OF ENERGY, MINES AND RESOURCES (EMR), ON 29 JUNE WHICH WOULD FORMALIZE AND, TO SOME EXTENT, LIBERALIZE THE "POLICY PRINCIPLES" LIMITING FOREIGN OWNERSHIP IN THE URANIUM INDUSTRY WHICH WERE FIRST ANNOUNCED BY THE GOC IN 1970. THE "POLICY PRINCIPLES" OR GUIDELINES HAVE LIMITED THE FOREIGN OWNERSHIP TO 33 PERCENT, THE ONLY EXEMPTIONS TO THIS LIMIT BEING COMPANIES THAT WERE PRODUCING URANIUM AS OF 2 MARCH 1970. UNDER THE NEW LEGISLATION, SHARES HELD BY OR FOR NON-RESIDENTS COULD BE UP TO 50 PERCENT PROVIDED THAT THE COMPANY IS CANADIAN CONTROLLED, OR THAT THE PROJECT IS "DETERMINED TO BE OF SIGNIFICANT BENEFIT TO CANADA." END SUMMARY.

2. AN ANNOUNCEMENT WAS MADE BY THE PRIME MINISTER AND BY THE MINISTER OF ENERGY, MINES AND RESOURCES, IN 1970, UNCLASSIFIED

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SETTING FORTH POLICY GUIDELINES TO LIMIT THE FOREIGN OWNERSHIP OF THE CANADIAN URANIUM INDUSTRY. UNDER THESE GUIDELINES, SHARES HELD BY OR FOR NON-RESIDENTS OF CANADA WERE TO BE LIMITED TO 33 PERCENT. THE EXCEPTIONS TO THIS RESTRICTION WERE THE COMPANIES WHICH WERE PRODUCING URANIUM AS OF 2 MARCH 1970, THE DAY OF THE GOC ANNOUNCEMENT. ALSO EXEMPT WERE COMPANIES THAT WERE

EXPLORING FOR URANIUM AS OF MARCH 1970, PROVIDED THAT THEY HAD DEMONSTRATED A COMMERCIALLY VIABLE DEPOSIT BY 2 MARCH 1976.

3. ALTHOUGH COMPANIES HAVE BEEN ADHERING TO THESE GUIDELINES, THERE HAS BEEN CONSIDERABLE PRESSURE ON THE GOVERNMENT TO ALLOW AN INCREASE IN FOREIGN PARTICIPATION TO ACCELERATE EXPLORATION AND DEVELOPMENT OF URANIUM RESOURCES. THUS THE GOC DECIDED THAT IT WAS NECESSARY TO FIRM UP THE POLICY THROUGH LEGISLATION.

4. THERE ALSO WAS A DESIRE BY THE FEDERAL GOVERNMENT TO TIE THE POLICY FOR DEVELOPMENT OF URANIUM RESOURCES MORE CLOSELY TO THE FOREIGN INVESTMENT REVIEW ACT, PARTS I AND II, WHICH WERE PROMULGATED IN 1974 AND 1975 RESPECTIVELY. THE OBJECTIVE OF THE GOC IS TO STRIVE FOR AT LEAST 50 PERCENT CANADIAN OWNERSHIP IN MAJOR RESOURCE INDUSTRIES.

5. THE NEW BILL INTRODUCED BY GILLESPIE WOULD BE ADMINISTERED BY ENERGY, MINES AND RESOURCES AND THE FOREIGN INVESTMENT REVIEW AGENCY (FIRA) WOULD ACT AS ADVISOR TO THE MINISTER OF EMR "TO ENSURE HARMONY BETWEEN OWNERSHIP AND CONTROL PRINCIPLES."

6. PRINCIPAL ELEMENTS OF THE NEW BILL ARE THAT A COMPANY
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DESIRING TO PRODUCE URANIUM IN CANADA MUST APPLY FOR AN EXTRACTION PERMIT. THIS PERMIT IS FILED WITH THE FIRA WHICH REFERS IT TO THE MINISTER OF EMR FOR A DECISION AS TO WHETHER THE COMPANY IS A "QUALIFIED APPLICANT." CRITERIA TO BE APPLIED INCLUDE: A) SHARES HELD BY OR FOR NON-RESIDENTS ARE NOT TO EXCEED 33 PERCENT, WITH CERTAIN EXCEPTIONS; B) THREE QUARTERS OF THE COMPANY DIRECTORS ARE TO BE CANADIAN CITIZENS; C) THE HOLDINGS OF WORKING INTERESTS, ROYALTY INTERESTS OR MANAGERIAL CONTRACTS BY NON-RESIDENTS ARE NOT TO EXCEED LIMITS PRESCRIBED BY THE GOVERNOR-IN-COUNCIL.

7. IF THE LATTER TWO CRITERIA ARE MET BUT THE FOREIGN OWNERSHIP IS BETWEEN 33 AND 50 PERCENT, AND THE APPLICANT CAN DEMONSTRATE THAT IT IS ELIGIBLE FOR PURPOSES OF THE FOREIGN INTEREST REVIEW ACT (IT IS CANADIAN-CONTROLLED), THE APPLICANT WILL BE DEEMED A "QUALIFIED APPLICANT."

8. IF THE FOREIGN OWNERSHIP IS LESS THAN FIFTY PERCENT AND THE APPLICANT IS NOT DEEMED BY THE MINISTER TO BE QUALIFIED, THE APPLICANT CAN RE-APPLY FOR A PERMIT ON

THE GROUNDS THAT THE PROPOSED PROJECT WOULD BE OF "SIGNIFICANT BENEFIT" TO CANADA. IF FIRA DECIDES IT IS OF "SIGNIFICANT BENEFIT" AND SO ADVISES THE MINISTER (EMR) HE WILL RECOMMEND APPROVAL TO THE GOVERNOR-IN-COUNCIL. THE LATTER CAN THEN AUTHORIZE THE MINISTER TO ISSUE AN EXTRACTION PERMIT ON THE GROUNDS OF SIGNIFICANT BENEFIT TO CANADA.

9. NO "QUALIFIED APPLICANT" NOR "SIGNIFICANT BENEFIT"

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L-03 NSAE-00 NSC-05 EB-08 NRC-07 SOE-02 DODE-00
DOE-15 SS-15 SP-02 CEQ-01 TRSE-00 OMB-01 COME-00
PA-02 ICA-20 /137 W
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ROUTE IS OPEN IF THE FOREIGN INVESTMENT EXCEEDS 50 PERCENT. ON THE OTHER HAND, EXISTING PROJECTS (PARAGRAPH 2) ARE "QUALIFIED APPLICANTS" AUTOMATICALLY.

10. WITH THE ABOVE CRITERIA (AND EXCEPTIONS) MET, THE MINISTER IS AUTHORIZED TO ISSUE AN EXTRACTION PERMIT FOR A PERIOD UP TO TEN YEARS, WITH RENEWALS (SUBJECT TO THE SAME REQUIREMENTS) FOR UP TO 5 YEARS.

11. COMMENT: THE CANADIAN GOVERNMENT STILL IS TRYING TO HAVE THE BEST OF THE TWO WORLDS--TO ENCOURAGE SUBSTANTIAL FOREIGN INVESTMENT IN URANIUM RESOURCE DEVELOPMENT AND AT THE SAME TIME TO MAINTAIN CANADIAN OWNERSHIP AND CONTROL. THEY ALSO WANT TO KEEP THE PRESENT MAJOR PRODUCERS MOVING FORWARD AND THAT IS THE REASON FOR THE "GRANDFATHER CLAUSE" (PARAGRAPH 2). TO COVER THE CASE WHERE THERE MAY BE STOCKHOLDERS IN FOREIGN COUNTRIES WHO HOLD MORE SHARES THAN ANY ONE IN CANADA AND YET WHOSE TOTAL HOLDINGS IS LESS THAN 50 PERCENT, THE GOC HAS INTRODUCED THE ESCAPE HATCH OF A "SIGNIFICANT BENEFIT TO CANADA" CRITERION.

ENDERS

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: URANIUM
Control Number: n/a
Copy: SINGLE
Draft Date: 06 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978OTTAWA03355
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780277-0527
Format: TEL
From: OTTAWA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780791/aaaacyhn.tel
Line Count: 170
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8a6b827a-c288-dd11-92da-001cc4696bcc
Office: ACTION OES
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2104109
Secure: OPEN
Status: NATIVE
Subject: URANIUM LEGISLATION INTRODUCED DEPARTMENT FOR OES/NET/HOYLE AND EUR/CAN DEPARTMENT PLEASE PASS DOE FOR NININGER AND SIEVER
TAGS: ENRG, TECH, CA
To: STATE
Type: TE
vdkgvkey: odbc://SAS/SAS.dbo.SAS_Docs/8a6b827a-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014